

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ASCENTIUM CAPITAL, LLC,

Plaintiff,

v.

VANCE L. FLETCHER M.D., LLC, et al.,

Defendants.

No. 2:22-cv-1347-KJN

ORDER TO SHOW CAUSE

Plaintiff filed this action on July 29, 2022.¹ (ECF No. 1.) As of February 16, 2023, no defendant has appeared. Rule 4 of the Federal Rules of Civil Procedure states:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

On August 1, 2022, plaintiff notified the court that one of the defendants, Vance L. Fletcher, was currently seeking bankruptcy reorganization, and so the case was subject to the automatic stay against him under 11 U.S.C. §362(a). However, plaintiff noted the other defendant, Vance Fletcher M.D., LLC, was not seeking similar bankruptcy protections, and so the

¹ This matter was referred to the undersigned under Appendix. A Sub. M of the Local Rules.


case was not stayed against the entity.² Therefore, plaintiff's complaint is potentially on the verge of being dismissed under Rule 4(m) against the LLC.

Accordingly, IT IS HEREBY ORDERED that:

1. Within 21 days of this order, plaintiff shall file a statement with the court indicating the status of service, or any good cause reasons why the LLC has not been served pursuant to Federal Rule of Civil Procedure 4; and
2. The status of the bankruptcy proceedings.

Failure to respond to this order, or failure to show good cause for the lack of service of process, will result in dismissal of plaintiff's case without prejudice against the LLC.

Dated: February 21, 2023


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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² The court is aware that defendant Fletcher is alleged to be the sole member of the LLC, and so it is likely that a stay is warranted against it as well, at a minimum on judicial economy grounds. However, this type of stay is not automatic like bankruptcy stays, and so any such relief should be requested by plaintiff.